

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
JONESBORO DIVISION**

LEONARD LEAFTY

Plaintiff

VS.

MANUEL IRIZARRY,
ADMINISTRATOR OF THE ESTATE
OF MANUEL IRIZARRY

Defendant

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NO: 3:06CV00043 SWW

ORDER

This case is before the Court on Plaintiff's motion for default judgment and damages. On April 9, 2005, Plaintiff filed a motion for default judgment and requested a hearing on damages. The Court adjudged Defendant to be in default for failure to answer or otherwise appear and directed the Clerk to enter default against Defendant. Defendant received notice of the Clerk's entry of default and notice that the Court would hold a hearing on damages on July 19, 2007. Defendant made no appearance at the hearing, which proceeded without him.

At the hearing, Plaintiff testified and presented evidence regarding his damages.¹ Based

¹When a default judgment is entered on a claim for an indefinite or uncertain amount of damages, facts alleged in the complaint are taken as true, except facts relating to the amount of damages, which must be proved "to a reasonable degree of certainty" in a supplemental hearing or proceeding. *See Everyday Learning Corp. v. Larson*, 242 F.3d 815, 818-19 (8th Cir. 2001).

on that evidence, the Court finds that Plaintiff has proved to a reasonable degree of certainty that he has suffered damages in the following amounts, which were proximately caused by the negligence of Manual Irizzary: \$ 75,000 for permanent injury; \$75,000 for pain and suffering experienced in the past and reasonably certain to be experienced in the future; and \$29,271.62 for medical expenses incurred.

IT IS THEREFORE ORDERED that Plaintiff's motion for default judgment (docket entry #5) is GRANTED. Default judgment will be entered in the total amount of \$179,271.62.

IT IS SO ORDERED THIS 3RD DAY OF AUGUST, 2007.

/s/Susan Webber Wright

UNITED STATES DISTRICT JUDGE